

1 S.182

2 Introduced by Senator Sears

3 Referred to Committee on Economic Development, Housing & General

4 Affairs

5 Date: January 5, 2010

6 Subject: Labor; unemployment compensation; employers' experience-rating
7 records

8 Statement of purpose: This bill proposes to clarify that payments made to a
9 principal of a business within two weeks prior to transfer shall not affect the
10 experience rating of the successor business.

11 An act relating to determining unemployment compensation experience
12 rating for successor businesses

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 21 V.S.A. § 1325(b)(1) is amended to read:~~

15 ~~(b)(1) Any individual or employing unit who in any manner succeeds to or~~
16 ~~acquires the organization, trade, or business or substantially all of the assets of~~
17 ~~any employer who has been operating his or her the business within two weeks~~
18 ~~prior to the acquisition, except any assets retained by the employer incident to~~
19 ~~the liquidation of his or her the employer's obligations, and who thereafter~~
20 ~~continues the acquired business shall be considered to be a successor to the~~

1 ~~predecessor from whom the business was acquired and, if not already an~~
2 employer before the acquisition, shall become an employer on the date of the
3 acquisition. The commissioner shall transfer the experience-rating record of
4 the predecessor employer to the successor employer. If the successor was not
5 an employer before the date of acquisition, ~~his or her~~ the successor's rate of
6 contribution for the remainder of the rate year shall be the rate applicable to the
7 predecessor employers with respect to the period immediately preceding the
8 date of acquisition if there was only one predecessor or there were only
9 predecessors with identical rates. If the predecessors' rates were not identical,
10 the commissioner shall determine a rate based on the combined experience of
11 all the predecessor employers. If the successor was an employer before the
12 date of acquisition, the contribution rate which was assigned to the successor
13 for the rate year in which the acquisition occurred will remain assigned to the
14 successor for the remainder of the rate year, after which the experience-rating
15 record of the predecessor shall be combined with the experience rating of the
16 successor to form the single employer experience-rating record of the
17 successor. For purposes of this section, operating the business within two
18 weeks prior to acquisition does not include payment by the successor business
19 of any bonuses to a principal of the previous business within two weeks prior
20 to the acquisition.

21 Sec. 2. EFFECTIVE DATE

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~~This act shall apply retroactively to January 1, 2008.~~

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY

* * *

*(b)(1) **Disclosure of contribution rate to successor entity.** Any individual or employing unit who in any manner succeeds to or acquires the organization, trade, or business or substantially all of the assets of any employer who has been operating ~~his or her~~ the business within two weeks prior to the acquisition, except any assets retained by the employer incident to the liquidation of ~~his or her~~ the employer's obligations, and who thereafter continues the acquired business shall be considered to be a successor to the predecessor from whom the business was acquired and, if not already an employer before the acquisition, shall become an employer on the date of the acquisition. The commissioner shall transfer the experience-rating record of the predecessor employer to the successor employer. If the successor was not an employer before the date of acquisition, ~~his or her~~ the successor's rate of contribution for the remainder of the rate year shall be the rate applicable to the predecessor employers with respect to the period immediately preceding the date of acquisition if there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the commissioner shall determine a rate based on the combined experience of all the predecessor employers. If the successor was an employer before the date of acquisition, the contribution rate which was assigned to the successor for the rate year in which the acquisition occurred will remain assigned to the successor for the remainder of the rate year, after which the experience-rating record of the predecessor shall be combined with the experience rating of the successor to form the single employer experience-rating record of the successor. At any time prior to the issuance of the certificate required by subsection 1322(b) of this chapter, an employing unit shall, upon request of a potential successor, disclose to the potential successor its current experience rating record.*

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